

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MARY DOE NINE,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:11-CV-353 (CEJ)
)	
WENTZVILLE R-IV SCHOOL DISTRICT,)	
et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion to stay the motion of defendant Michael Williams for partial summary judgment and to set a Rule 16 scheduling conference. The Court will construe plaintiff's motion for a stay as a motion pursuant to Rule 56(d), Fed.R.Civ.P. Defendant Williams has filed a motion to overrule plaintiff's motion.

Plaintiff filed this action on February 24, 2011. On May 4, 2011, defendant Williams filed a motion for partial summary judgment, before any discovery had been obtained. Rule 56(d) provides:

If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may (1) defer considering the motion or deny it; (2) allow time to obtain affidavits or declarations or to take discovery; or (3) issue any other appropriate order.

Plaintiff alleges that defendant Williams raped her in 1993 when she was a fifth-grade student at Wentzville East Elementary School. Defendant Williams has filed documents purporting to establish that Wentzville East Elementary School did not serve fifth grade students until after 1993. Plaintiff asserts that she cannot respond to his motion until she receives discovery from the school district. The Court agrees

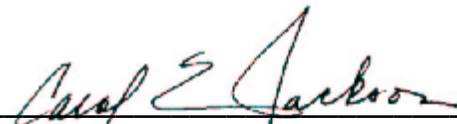
that defendant's motion is premature and will deny it without prejudice. Also, this matter will be set for Rule 16 scheduling conference by separate order.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to stay and for a Rule 16 scheduling conference [Doc. #19] is **granted**.

IT IS FURTHER ORDERED that defendant's motion to overrule plaintiff's motion [Doc. #25] is **denied**.

IT IS FURTHER ORDERED that the motion of defendant Michael Williams for summary judgment [Doc. #12] is **denied without prejudice**.


CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 28th day of June, 2011.